

REMARKS

The current restriction requirement fails to name a materially different process that the claimed product can be practiced with. According to MPEP §808, a proper restriction requirement requires a proper reason “as distinguished from the mere statement of conclusion” of why each invention is distinct from the others. The reason stated in the present restriction is that “the apparatus claims can be used by a method different than that group I such as using an extend downspout to direct water away from the building.” This is not, however, a “materially different” method. A materially different method would omit one of the steps required by the claimed method or conduct one of the steps with a materially different step. Use of an “extend downspout” is not inconsistent with the apparatus of Group II, which can certainly be used in addition to an extend downspout. FIG. 1 of the present application even shows a downspout and nothing in the claims or description precludes use of an “extend downspout”. Thus, the current restriction is incorrect. However, since the Group I claims have already been withdrawn from consideration, there is no further action required and examination can proceed, as it has been proceeding, based upon the Group II claims.

Respectfully submitted,

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